



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

5

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/127,112	07/31/1998	BRIAN I MARCUS	005	9729

28554 7590 12/07/2004

VIERRA MAGEN MARCUS HARMON & DENIRO LLP
685 MARKET STREET, SUITE 540
SAN FRANCISCO, CA 94105

EXAMINER

HARRIS, CHANDA L

ART UNIT	PAPER NUMBER
----------	--------------

3714

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/127,112

Applicant(s)

MARCUS ET AL.

Examiner

Chanda L. Harris

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 84-101 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 84-101 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

In response to the Amendment filed 6/10/04, Claims 84-101 are pending. Claims 1-83 are cancelled.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 89-101 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 89 recites the limitation "the work space" in lines 10-11, 13. There is insufficient antecedent basis for this limitation in the claim.
- Claim 98 recites the limitation "the work space" in 10 and 12. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 84-101 are rejected under 35 U.S.C. 102(e) as being anticipated by Wood (US 5,511,980).

1. [Claims 84,89,93,98]: Regarding Claims 84,89, 93, and 98, Wood discloses a visual graphical environment (FIG.1, element 34) for a child, the graphical environment presenting a child with one or more visual prompts (FIG.1, element 35), said prompts assisting to prompt the child to cognitively react by manipulating one or more graspable objects (FIG.1, elements 26, 28, 34) in a desired fashion. Wood discloses an educational appliance support structure (FIG.1, element 10), said support structure having a work space (FIG.1, element 12) capable of receiving input from a child through the detection of the location of one or more graspable objects placed or manipulated (i.e., touched) on the work space. See Col.2: 10-33. Wood discloses one or more detectors (i.e., electronic circuitry) associated with a workspace, the detectors being capable of detecting the location of the one or more graspable objects placed or

Art Unit: 3714

manipulated on the work space by detecting a mechanical downward force (i.e., touch) generated by the child's placement or manipulation of the one or more graspable objects on the work space and a processor (i.e., electronic circuitry) capable of determining whether the location of the one or more graspable objects placed or manipulated on the work space corresponds to a desired response (i.e., match). See Col.2: 33-54, Col.4: 38-39, and Col.5: 24-33.

2. [Claims 85,90,94,99]: Regarding Claims 85,90, 94, and 99, Wood discloses where said graphical environment comprises a visual image on the work space. See FIG.2C and Col.4: 50-54.

3. [Claims 86,91,95,100]: Regarding Claims 86,91, and 95, Wood discloses an audio output device capable of providing one or more audio prompts assisting to prompt the child to cognitively react by manipulating one or more graspable objects (i.e., recite the name associated with the card). See Col.5: 24-29.

4. [Claims 87,92,96,101]: Regarding Claims 87,92, and 96, Wood discloses wherein the audio output device is further capable of providing audio feedback to the child depending on whether the location of the one or more graspable objects placed or manipulated on the work space corresponds to a desired response (e.g., sounding an error message). See Col.5: 29-33.

5. [Claims 88,97] Regarding Claims 88 and 97, Wood discloses where said educational appliance includes a loadable memory. See Col.4: 38-49.

Citation of Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Smith, III (US 5,277,429)

-sound generator, visual prompts, graspable objects

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection. See rejection above. Therefore, this action is made NON-FINAL.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 571-272-4448. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3714

Chanda L. Harris

Chanda L. Harris

Examiner

Art Unit 3714

ch.